

**SENATE BILL**

**No. 609**

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**Introduced by Senator Romero**

February 22, 2007

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An act to add Section 1111.5 to the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 609, as amended, Romero. Criminal procedure: informants.

Existing law generally regulates the admissibility and use of evidence.

This bill would provide that a court may not convict a defendant, find a special circumstance true, or use a fact in aggravation based on the uncorroborated testimony of an in-custody informant.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1111.5 is added to the Penal Code, to  
2     read:  
3     1111.5. (a) A jury or judge may not convict a defendant, find  
4     a special circumstance true, or use a fact in aggravation based on  
5     the uncorroborated testimony of an in-custody informant. The  
6     testimony of an in-custody informant shall be corroborated by  
7     other evidence that ~~independently tends to connect~~ *connects* the  
8     defendant with the commission of the offense, the special  
9     circumstance, or the evidence offered in aggravation to which the  
10    in-custody informant testifies. Corroboration is not sufficient if it  
11    merely shows the commission of the offense or the special

1 circumstance or the circumstance in aggravation. Corroboration  
2 of an in-custody informant shall not be provided by the testimony  
3 of another in-custody informant *unless the party calling the*  
4 *in-custody informant as a witness establishes by a preponderance*  
5 *of the evidence that the in-custody informant has not communicated*  
6 *with another in-custody informant on the subject of the testimony.*

7 (b) As used in this section, “in-custody informant” means a  
8 person, other than a codefendant, percipient witness, accomplice,  
9 or coconspirator, whose testimony is based on statements allegedly  
10 made by the defendant while both the defendant and the informant  
11 were held in within a city or county jail, state penal institution, or  
12 correctional institution. Nothing in this section limits or changes  
13 the requirements for corroboration of accomplice testimony  
14 pursuant to Section 1111.